

## **Comments of CA Maldives on the 6<sup>th</sup> Draft Amendment to the Regulation Number 2020/R-21 (“Income Tax Regulation”) and Other Sections of Income Tax Regulation**

**Section A – Comments on 6<sup>th</sup> Draft Amendment to the Income Tax Regulation (“ITR”)**

<b>1. Comments on Section 8-2 (A) and (B)</b>	
<b>Current Draft:</b>	<p>(A) ބަލާ ފަރާތް ގެ އުދަތުރު ގޮތެއްގައި ހިމާރުކަމަށް ވާ ނަމަ ސޯޅޭ ބަލާ ފަރާތް ގެ މައުލޫމާތު</p> <p>އަންނަން ދޭ ނަމަ ސޯޅޭ ބަލާ ފަރާތް ގެ މައުލޫމާތު، 50-1 ވަނަ ޖަދުވަލު (A) ގައި</p> <p>ހުންނަ ބަލާ ފަރާތް ގެ އުދަތުރު ގޮތެއްގައި ހިމާރުކަމަށް ވާ ނަމަ ސޯޅޭ ބަލާ ފަރާތް ގެ</p> <p>މައުލޫމާތު ހިމާރުކަމަށް ވާ ނަމަ.</p> <p>(B) ބަލާ ފަރާތް (A) ގެ އުދަތުރު ގޮތެއްގައި ހިމާރުކަމަށް ވާ ނަމަ 10 ވަނަ ޖަދުވަލު</p> <p>ގެ ދަށުން ހިމާރުކަމަށް ވާ ނަމަ.</p>
<b>Comment 1:</b>	Registration under the Income Tax Act (“ITA”) is required for persons who earn income from Maldives as specified under Section 2 of the ITA. Withholding agents under Section 50-1 of the ITA are not persons that are affected by the Act. Hence, suggest removing this requirement and keep it as an internal mechanism where Maldives Inland Revenue Authority (“MIRA”) can accept the Capital Gains Withholding Tax (“CGT WHT”) returns filed. Imposing stricter registration requirements on them could pave way for non-compliance.
<b>Comment 2:</b>	Suggested including a time frame to complete the registration process.
<b>Comment 3:</b>	Clarify the deregistration process that needs to be followed

<b>Comment 4:</b>	Recommended to include a requirement on the MIRA to initiate the deregistration process.
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## 2. Comments on Section 17 (✓)

[illegible]

### 3. Comments on Section 17-1 (س)

[illegible]

	<p>employment and the fact that the employees do not live in these accommodation (rather they temporarily accommodate in these places for the purpose of employment only) makes it unreasonable to consider them as a taxable benefit.</p> <p>It is therefore recommended that this clause be excluded for employees working on uninhabited islands.</p>
<b>Comment 2</b>	<p>Instead of factoring in exclusive bathroom as a criteria for determining the benefit as taxable, It is recommended to define the term “مُستأجر” used in the clause.</p>
<b>Comment 3</b>	<p>When defining the term “مُستأجر” it is advisable to include criteria that take residency-related factors into account when evaluating whether an accommodation constitutes a benefit for employees.</p> <p>For instance, accommodation may be treated as a benefit if the employee’s family resides there (or has the right to reside) for at least 183 days within a full tax year.</p>

#### 4. Comments on Section 42 (1 - ۴)

[illegible]

[illegible]

## 5. Comments on Section 59 (∞)

[illegible]

<b>Comment 2:</b>	<p>The above clause could have significant impact on the rental income earners. They may not earn an income over MVR 10 million in a year while their assets value almost always exceeds MVR 10 million. It will not be reasonable for rental income earners if such the MVR 10 million threshold is kept for assets and income.</p> <p>It is recommended that MIRA calibrate the MVR 10 million non-current asset threshold for rental income earners in relation to the MVR 10 million revenue threshold.</p>
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## 6. Comments on Section 60 (ރ)

<b>Current Draft:</b>	(ދިވެހިރާއްޖޭގެ ޖުމްހޫރިއްޔާ)
<b>Comment 1:</b>	<p>Recommended to keep the Section 60 (b) of the ITR with the below changes.</p> <ol style="list-style-type: none"> <li>1. For financial reporting purposes, reference should be made to IAS 21 or the relevant applicable financial reporting standards</li> <li>2. For payment purposes, an objective test should be applied: if the taxpayer's functional currency is MVR, payments should be made in MVR; if the functional currency is any currency other than MVR, payments should be made in USD.</li> </ol>
<b>Comment 2:</b>	<p>The removal of Section 60(b) may obligate taxpayers to maintain dual sets of financial accounts—one for tax reporting and another for financial reporting—thereby increasing administrative burden and compliance costs.</p>

## 7. Comments on Section 61-1 (ރ)

[illegible]

<b>8. Comments on Section 72-1</b>	
<b>Current Draft:</b>	<p>هەندو هەژمەتوێک وەرگیرێ، بۆ ئەوەی بەرێوەبەرێکی، ئێستێجی سەواڵێکی گشتی      ئێستێجی سەواڵێکی، کە یەکێتی 59 قسە دەرگرتنی (ب) و گرتن و ئێستێجی      ئێستێجی سەواڵێکی، بۆ ئەوەی بەرێوەبەرێکی دەرگرتن و ئێستێجی سەواڵێکی      دەرگرتن و ئێستێجی سەواڵێکی، بۆ ئەوەی بەرێوەبەرێکی دەرگرتن و ئێستێجی سەواڵێکی.</p>
<b>Comment 1:</b>	<p>In cases where a resort sublease covers the major part of the economic life of the head lease, the arrangement is typically classified as a finance lease. As a result, it may fall within the scope of interest limitation rules and thin capitalisation provisions. However, given that such subleases reflect genuine commercial arrangements, we recommend excluding them from the scope of thin capitalisation and interest deductibility restrictions. It is also</p>

	recommended that MIRA issue guidance on reporting the income and payment of tax where the sublease is essentially treated as a sale and a substantial amount of profit/loss arises from the sale.
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## 9. Comments on Section 72-2 (✓)

<p><b>Current Draft:</b></p>	<p>79 ڊيٽا ڏيکارڻ (ر) ۽ ڪٽڻ، ڏيکارڻ ۽ ڊيٽا ڏيکارڻ جي ڏيکارڻ جي ڏيکارڻ.</p>
<p><b>Comment 1:</b></p>	<p>Recommended to give reference to the relevant accounting standards rather than setting this out in the Regulation (since standard is more comprehensive, a clearer guidance is available for taxpayers).</p>
<p><b>Comment 2:</b></p>	<p>Recommended to keep the English version in the same wording as the accounting standards.</p>

## 10. Comments on Section 72-2 (✓) (1)

[illegible]

## 11. Comments on Section 102 (ۛ)

[illegible]

	<p>10,000,000/- (مصر دجھرس) غیرموجودہ اثاثوں کے مجموعہ سے 10,000,000/- (مصر دجھرس) دے دیں گے۔</p> <p>(7) وہ سال سے پہلے ہی کے لئے مقررہ ہوئے ہیں جو کہ ان کے لئے مقررہ ہیں۔</p> <p>مقررہ۔ ان کے لئے مقررہ ہے کہ ان کے لئے 59 سال دے دیں گے۔ (8)</p> <p>ان کے لئے مقررہ ہوئے ہیں، دے دیں گے (1)، (2)، (3) ان کے لئے (4) وہ سال سے پہلے ہی کے لئے مقررہ ہوئے ہیں۔</p>
<p><b>Comment 1:</b></p>	<p>Recommended revising the non-current assets threshold of MVR 10 million with respect to the rental income earners.</p>

12. Comments on Section 105-1 (س) and (ر)	
Current Draft:	<p>(ر) ریسٹرنٹ ڈائریکٹرز کو اعلیٰ ترین مالیاتی سروسز فراہم کرنے والے سرکاری اداروں کے ذریعے فراہم کردہ خدمات پر 50% (تیس سو فیصد) پر مشتمل ایکسائز ڈیوٹی کا اطلاق ہوگا۔</p> <p>(س) جب ڈائریکٹر (ر) کے ذریعے فراہم کردہ خدمات پر ایکسائز ڈیوٹی کا اطلاق ہوگا، تو اس کے علاوہ ایکسائز ڈیوٹی کا اطلاق 50% (تیس سو فیصد) پر مشتمل ایکسائز ڈیوٹی کا اطلاق ہوگا۔</p>
Comment 1:	<p>Recommended aligning this Section with our comments on <b>Section 60 (س)</b>. That is the Taxpayers are required to prepare the financial statements in accordance with the applicable financial reporting standards. The MIRA may require taxpayers to make the tax payments in USD if certain criteria is met in terms of income receipt. In other words, there is no nexus between the payment currency and the functional currency of the taxpayer.</p>



### 13. Comments on Section 107 (e)

[illegible]

## 14. Comments on Section 123 ( $\infty$ )

<b>Current Draft:</b>	<p>د دډيټرې (م) په اړه د ناسم واکمنۍ پر سرکوس، ګڼنيزې 55 سوسه</p> <p>دډيټرې ترسره شوې بېرته پرمختللي او جدي شوقونه او تمناوې وپريچولې دي.</p> <p>خپله د اسستانت، برورسمانتي په واکمني کې ورکوي چې ګڼنيزې 56 سوسه دډيټرې</p> <p>ترسره کړي. هر يوه برخه له خوا په دې دډيټرې (ر) ته ګڼنيزې بېرته پرمختللي دي.</p> <p style="text-align: right;">واکمني او خپله د ناسم واکمنۍ پر سرکوس.</p>
<b>Comment 1:</b>	Setting eligible party for refund as the agent (person making the payment on behalf of the non-resident party) is inconsistent with refund process set for Employee Withholding Tax and Capital Gains Tax ("CGT").

<b>Comment 2:</b>	Additionally, in the instances where the non-resident wishes to submit a final return, they will not be eligible for credit.
<b>Comment 3:</b>	The above also would place the Maldives in disadvantageous position as there is a possibility of foreigners demanding the local agent to bear the Non-resident Withholding Tax.
<b>Comment 4:</b>	Recommended to not add 123 (☞).



## **Section B – Other Sections of Income Tax Regulation**

<b>15.Comments on Section 90 (س)</b>					
<b>Current Regulation:</b>		<p>(ر) كى تەرىپى ئۆزلىكىگە بېرىش، ياكى باشقا شەكلىدە بېرىش، ياكى باشقا شەكلىدە بېرىش، ياكى باشقا شەكلىدە بېرىش.</p>			
<b>Comment 1:</b>		Currently, in case of group restructuring and transfer of assets from individual to company, there seems to be no tax benefits for CGT producing assets (although Capital Allowance claimable assets can be transferred tax free). We recommend that CGT producing assets are also included within the scope of these restructurings so that they can be transferred without tax implications.			

